

SEALED
United States District Court

NORTHERN

DISTRICT OF

CLERK, U.S. DISTRICT COURT
By **TEXAS**

Deputy

JUN 11 2015

**APPLICATION AND AFFIDAVIT
FOR ADMINISTRATIVE
INSPECTION WARRANT**

CASE NUMBER: 3:15-mj-420-BK

In re Administration Inspection of
(Name, address or brief description of person, property or premises to be searched)

THE PHARMACY PLACE
4031 W. PLANO PARKWAY, STE 211
PLANO, TEXAS 75093

I Wesley A. Russell being duly sworn depose and say:

I am a(n) **Task Force Officer with the Drug Enforcement Administration (DEA)** and have reason to believe that on the person of or XX on the property or premises known as (name, description and/or location)

(SEE ATTACHMENT A)

in the NORTHERN District of TEXAS there is now concealed a certain person or property, namely (describe the person or property to be seized)

(SEE ATTACHMENT B)

which is (state one or more bases for search and seizure)

a place where records, documents, are kept or required to be kept, and a place where controlled substances and listed chemicals may be held, manufactured, distributed, dispensed, administered, and disposed of or where records relating to those activities are maintained pursuant to 21 USC 880

concerning a violation of Title 21 United States Code, Section(s) 827, 880. The facts to support a finding of Probable Cause are as follows:

(SEE ATTACHED AFFIDAVIT OF WESLEY A. RUSSELL).

Continued on the attached sheet and made a part hereof. XX Yes No


Signature of Affiant
Wesley A. Russell
Task Force Officer, DEA

Sworn to before me, and subscribed in my presence

June 11, 2015

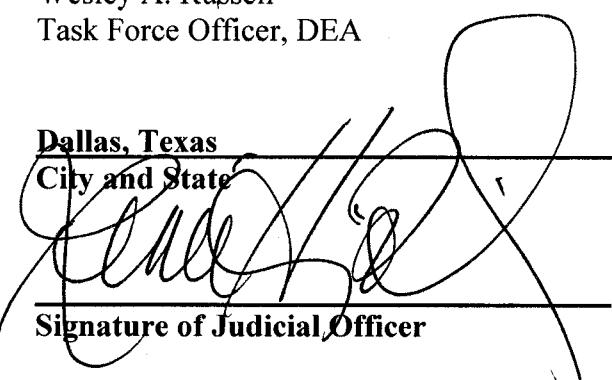
Date

at

Dallas, Texas

City and State

RENEE HARRIS TOLIVER
United States Magistrate Judge
Name and Title of Judicial Officer


Signature of Judicial Officer

AFFIDAVIT

I, Wesley Russell, hereby swear and affirm as follows:

Training and Experience

1. I, Wesley Russell, a TCOLE certified Texas Peace Officer hold a Master Peace Officer Certificate with more than 4900 training and education hours. I have been employed by the City of Greenville Police Department for more than 22 years. I have been assigned to the Criminal Investigation Division since July 1997 and have been assigned as a Narcotics Investigator since June 2000. I have served as a Task Force Officer with Federal, State, and local drug task forces since June of 2000. I have also served as a Task Force Officer with the U.S. Marshall Service Fugitive Apprehension Strike Team and am currently assigned to the Drug Enforcement Administration Tactical Diversion Squad at the Dallas Field Division in Dallas, Texas. I have conducted or assisted in numerous narcotic investigations that included surveillance, both moving and stationary, the use and management of confidential informants, working in an undercover capacity, and being the affiant on narcotics search warrants and narcotics arrest warrants. I have experience and have received additional training in narcotics recognition, crime scene photography, forgery investigations, vehicle theft, and developing of latent prints, marihuana cultivation investigations, club drug investigations, clandestine laboratory response and methamphetamine investigations, money laundering and asset forfeiture investigations, small air field interdiction, highway and bus interdiction, consensual contacts and conspiracy investigations. I attended diversion investigations training for DEA in 2014 at the DEA training center at Quantico, Virginia. Further, I have been

involved in investigations that have resulted in arrests and seizures of controlled substances as pertains to DEA registered doctors, pharmacies, hospitals, and other registered and non-registered subjects. I have communicated extensively with other Federal, State, and local law enforcement personnel who also specialize in this area.

2. The purpose of this affidavit is to support an application for an Administrative Inspection Warrant (“AIW”) of the place of business of THE PHARMACY PLACE, located at and having a registered address of 4031 W. Plano Parkway, Suite 211, Plano, Texas 75093, as more specifically described in Attachment A and incorporated herein.

3. The statements in this affidavit are based on my training and experience, my personal knowledge of the facts and circumstances of and participation in this investigation, and also information provided to me by other Diversion Investigators and law enforcement officers (together, “Investigators”). Because this affidavit is submitted for the limited purpose of supporting an application for an administrative inspection warrant, I have not included each and every fact known concerning this investigation. Instead, I have set forth only the facts believed necessary to establish justify my belief that records will be located in THE PHARMACY PLACE. The grounds for my belief are set forth in the following paragraphs.

4. This place of business is a controlled premises within the meaning of Title 21, United States Code, Section 880(a), and Title 21, Code of Federal Regulations, Section 1316.02(c). The purpose of this warrant is to verify the correctness of controlled substance inventories, records, reports, and other documents required to be kept under the

Controlled Substance Act (“CSA”), in particular, Title 21, United States Code, Section 827, and to protect public health and safety. THE PHARMACY PLACE is a business registered under the provisions of the CSA, Title 21, United States Code, Sections 822 and 823 et seq. as a retail pharmacy and currently holds a valid DEA controlled substances registration number FT4134805 for ordering and dispensing controlled substances in schedules 2, 2N, 3, 3N, 4 and 5.

5. THE PHARMACY PLACE is required under the CSA and CFR to make and keep complete and accurate records and inventories of all controlled substances purchased, dispensed or otherwise disposed of, pursuant to Title 21, United States Code, Section 827, and Title 21, Code of Federal Regulations, Parts 1304 et seq.

6. On July 29, 2014, DEA Dallas Field Division Tactical Diversion Squad conducted an undercover operation at the Redbird Family Medical Clinic (“Redbird”) located at 3107 W. Camp Wisdom Road, Dallas, Texas. Texas Department of Public Safety Agent Mo Anderson, acting in an undercover capacity, obtained a fraudulent prescription for hydrocodone (among other drugs) for which he had no legitimate medical need. He was informed had been faxed to Lake Ridge Pharmacy to be filled. After many attempts to obtain the prescriptions at Lake Ridge Pharmacy, he learned the prescriptions had been faxed to THE PHARMACY PLACE. Shortly after, Agent Anderson travelled to THE PHARMACY PLACE to obtain the prescriptions but was unable to do so because the fax from Redbird was unsuccessful. On August 1, 2014, Agent Anderson, acting in an undercover capacity, confirmed telephonically with THE PHARMACY PLACE that his script from July 29, 2014, had been received by fax from Redbird and

that his pills would be available for pickup. The prescriptions for hydrocodone and several non-controlled substances were picked up from THE PHARMACY PLACE and paid for in cash. The prescriptions were written by Nurse Practitioner Leslie Rodriguez, who is believed to write prescriptions for controlled substances for which there is no legitimate medical need and outside the scope of professional practice. *No medical examination was performed by*

7. I reviewed prescription information related to controlled substance prescriptions filled at THE PHARMACY PLACE from June 10, 2014, through July 10, 2014. Analysis of this information shows that hydrocodone, alprazolam, and promethazine-codeine, all highly abused pharmaceutical controlled substances in the Dallas/Fort Worth area, account for approximately 76% of all controlled substance prescriptions filled at THE PHARMACY PLACE during the time frame. Further review of the data reveals that hydrocodone, a schedule II controlled substance used to treat pain, accounts for approximately 32% of all controlled substance prescriptions filled at THE PHARMACY PLACE during the time frame.

8. I believe that THE PHARMACY PLACE Officer, Ijeoma Chinyere Igwe, will not consent to signing a Form DEA 82-Notice of Inspection of Controlled Premises, based upon the filling of fraudulent prescriptions at THE PHARMACY PLACE. I have examined the files and records of the Drug Enforcement Administration and have determined that THE PHARMACY PLACE has never been inspected by DEA. The need to inspect THE PHARMACY PLACE's registered location; the need to verify the correctness of inventories, prescription records, reports, and other documents required to be kept under the CSA; and the need to verify security provisions utilized by the

registrant in storing and handling controlled substances result from a valid public interest in the effective enforcement of the CSA and implementing regulations. The administrative inspection will extend to the review of inventory of stocks of controlled substances, finished or unfinished substances and pertinent equipment associated with the storage and handling of controlled substances, and if necessary, any applicable records and/or samples of controlled substances will be seized.

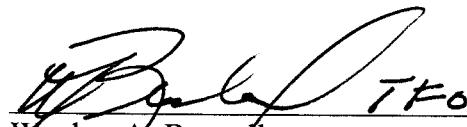
9. I will conduct the inspection within regular business hours. The Officer/Investigator's credentials will be presented to the registrant. The inspection will begin as soon as practicable after the issuance of the administrative inspection warrant and will conclude with reasonable promptness.

10. I will be accompanied by one or more Diversion Investigators or DEA Special Agents, who are employees of the U.S. Department of Justice, DEA, and authorized by the Attorney General to conduct administrative inspections.

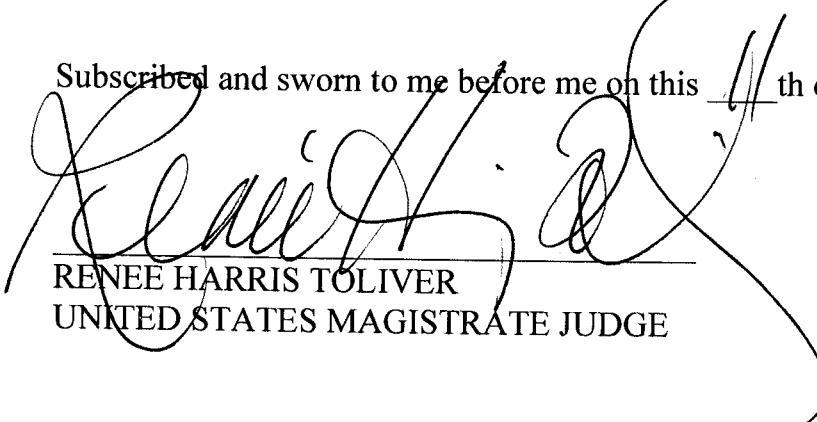
11. I will return this warrant to the Magistrate Judge who issued the warrant within 10 days of the completion of the inspection.

[nothing further on this page]

12. Based on all of the foregoing, pursuant to 21 U.S.C. § 880, I request for an administrative inspection warrant to inspect, copy, and verify the correctness of all records, reports, and other items required to be made and kept under 21 U.S.C. § 827 and 21 C.F.R. §1304 et seq., identified in Attachment B, from THE PHARMACY PLACE, identified in Attachment A, be issued.


Wesley A. Russell
Task Force Officer
Drug Enforcement Administration

Subscribed and sworn to me before me on this 11th day of June, 2015.


RENEE HARRIS TOLIVER
UNITED STATES MAGISTRATE JUDGE

ATTACHMENT A

Premises to be Searched

The premise to be searched is described as follows:

THE PHARMACY PLACE, located at 4031 W. Plano Parkway, Suite 211, Plano, Texas 75093. The pharmacy is situated on the east side of the northbound traffic lane of W. Plano Parkway. The pharmacy is located on the second floor of a multi-story medical office building. The medical office building itself is constructed of brown brick and mirrored office windows.

ATTACHMENT B

Items to be seized

All records and items required to be made and kept pursuant to the Controlled Substances Act, 21 U.S.C. § 827, relating to controlled substances, including but not limited to:

1. Stocks
2. Inventories
3. Order form and invoice records
4. Prescription records
5. Distribution records
6. Records of listed chemicals, tableting machines, and encapsulating machines